

**MEETING MINUTES**  
**Board of Mental Health Practice**

July 12, 2019

**1. ROLL CALL**

The meeting of the Board of Mental Health Practice was called to order by the Vice-Chair, Terrance Moore, at 9:05 a.m. in Lower Level Room B, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. Copies of the agenda were mailed to the Board members and other interested parties in accordance with the Open Meetings Law.

**Members Present:** The following members answered Roll Call:

Dale Battleson, Member  
Chante Chambers, Member  
David Hof, Member  
Thomas Maxson, Secretary  
Terrance Moore, Vice-Chair  
Sarita Ruma, Member

**Members Absent:**

Laurie Andrews, Member  
Cassandra Dittmer, Member  
L. Janeen Gill, Member  
Susan Reay, Chair

**Others Present:**

Mindy Lester, Assistant Attorney General  
Abigail Hall, Law Student  
Kris Chiles, Program Manager, Licensure Unit  
Anna Harrison, Compliance Monitor  
Juan Ramirez  
Matt Gelvin, Program Manager, Licensure Unit

A quorum was present and the meeting convened.

**2. ADOPTION OF AGENDA**

**MOTION:** Hoff moved, seconded by Ruma, to adopt the agenda. A voice vote was taken. Voting aye: Battleson, Hof, Maxson, Moore, Ruma (5). Voting nay: None (0). Absent: Andrews, Dittmer, Gil, Reay (4). Abstain: None (0). Motion carried.

**3. APPROVAL OF MINUTES (3-1-19)**

**MOTION:** Ruma moved, seconded by Chambers, to approve the minutes of 5-3-19. A voice vote was taken. Voting aye: Battleson, Hof, Maxson, Moore, Ruma (5). Voting nay: None (0). Absent: Andrews, Dittmer, Gil, Reay (4). Abstain: None (0). Motion carried.

9:11 a.m. Larry Wiehn, Investigations, entered the meeting

**4. HEALTH CARE PROFESSIONALS DISCIPLINARY ACTIONS 2012 TO 2017**

Gelvin, Harrison, and Ramirez provided an overview of health care professional's disciplinary actions from 2012 and 2017. Notes of interest were:

- 1339 Health Care Professionals currently being monitored based on disciplinary action (56 MHP related)
- 41.7% of the 1339 are on probation, 15.1% suspended
- 240 professionals disciplined for 3 or more years (11 MHP related); most common violation substance use disorder (41.6%)

- 145 professionals disciplined for 5 or more years (3 MHP related)
- Average of 290 days (approximately 10 months) to first lapse (2012 to 2017 all professions)
- MHP Demographics relating to discipline: 32% male and 68% female
- MHP Demographics relating to age and discipline: Millennials 27%, Generation X (47%, Baby Boomers 24%, Silent Generations 2%

Slides relating to the presentation are available upon request.

9:21 a.m. Carla Cue and Mark Meyerson, Investigators, entered the meeting

9:40 a.m. Gelvin and Ramirez departed the meeting

## **5. INVESTIGATIVE REPORTS & OTHER CONFIDENTIAL INFORMATION** **CLOSED SESSION**

**MOTION:** Ruma moved, seconded by Hof, to enter into closed session at 9:42 a.m. to hear discussions of an investigative/confidential nature, and for the prevention of needless injury to the reputation of the individuals. Moore repeated the motion purpose. A roll call vote was taken. Voting aye: Battleson, Hof, Maxson, Moore, Ruma (5). Voting nay: None (0). Absent: Andrews, Dittmer, Gil, Reay (4). Abstain: None (0). Motion carried.

10:27 a.m. Battleson and Ruma departed the meeting (conflict of interest)

10:45 a.m. Battleson and Ruma re-entered the meeting

10:45 a.m. Meyerson departed the meeting

10:58 a.m. Wiehn departed the meeting

10:58 a.m. Meeting Break

11:00 a.m. Cue departed the meeting

11:16 a.m. Meeting Resumed

11:32 a.m. Harrison departed the meeting

**MOTION:** Ruma moved, seconded by Hof, to enter into open session at 11:37 a.m. A roll call vote was taken. Voting aye: Battleson, Hof, Maxson, Moore, Ruma (5). Voting nay: None (0). Absent: Andrews, Dittmer, Gil, Reay (4). Abstain: None (0). Motion carried.

## **6. REVIEW, RECOMMENDATIONS, AND REPORT OUT** **OPEN SESSION**

- **Applications, Mail Ballot summary Report, and Reinstatements**

Conviction Reviews:

Loren Dexter – Provisional Mental Health Practitioner

**MOTION:** Maxson moved, seconded by Ruma, to recommend issuance of the provisional license. A roll call vote was taken. Voting aye: Battleson, Hof, Maxson, Moore, Ruma (5). Voting nay: None (0). Absent: Andrews, Dittmer, Gil, Reay (4). Abstain: None (0). Motion carried.

Christopher Jobman – Provisional Mental Health Practitioner and Provisional Master Social Worker

**MOTION:** Battleson moved, seconded by Ruma, to recommend issuance of the provisional license and certificate. A roll call vote was taken. Voting aye: Battleson, Hof, Maxson, Moore, Ruma (5). Voting nay: None (0). Absent: Andrews, Dittmer, Gil, Reay (4). Abstain: None (0). Motion carried.

11:50 a.m. Meeting Break

12:11 p.m. Meeting resumed

## **7. BOARD BY-LAWS REVIEW, REVISIONS, AND ADOPTION**

Deferred to next meeting.

## **8. UPDATES AND REPORTS**

### **a. Board News Page on Web Status**

Battleson volunteered to take the lead to write an article relating to Neb. Rev. Stat. §§ 42-381 and 71-8403 (see statute language below).

#### 42-381: Minor child; rights of parents.

In any final decree or decree of modification in an action for dissolution of marriage, declaration concerning the validity of a marriage, legal separation, or declaration of paternity, regardless of the determination of the court relating to the custody of a minor child, (1) each parent shall continue to have full and equal access to the education and medical records of his or her child unless the court orders to the contrary and (2) either parent may make emergency decisions affecting the health or safety of his or her child while the child is in the physical custody of such parent.

#### 71-8403: Access to medical records.

(1) A patient may request a copy of the patient's medical records or may request to examine such records. Access to such records shall be provided upon request pursuant to sections 71-8401 to 71-8407, except that mental health medical records may be withheld if any treating physician, psychologist, or mental health practitioner determines in his or her professional opinion that release of the records would not be in the best interest of the patient unless the release is required by court order. The request and any authorization shall be in writing. If an authorization does not contain an expiration date or specify an event the occurrence of which causes the authorization to expire, the authorization shall expire twelve months after the date the authorization was executed by the patient.

(2) Upon receiving a written request for a copy of the patient's medical records under subsection (1) of this section, the provider shall furnish the person making the request a copy of such records not later than thirty days after the written request is received.

(3) Upon receiving a written request to examine the patient's medical records under subsection (1) of this section, the provider shall, as promptly as required under the circumstances but no later than ten days after receiving the request: (a) Make the medical records available for examination during regular business hours; (b) inform the patient if the records do not exist or cannot be found; (c) if the provider does not maintain the records, inform the patient of the name and address of the provider who maintains such records, if known; or (d) if unusual circumstances have delayed handling the request, inform the patient in writing of the reasons for the delay and the earliest date, not later than twenty-one days after receiving the request, when the records will be available for examination. The provider shall furnish a copy of medical records to the patient as provided in subsection (2) of this section if requested.

(4) This section does not require the retention of records or impose liability for the destruction of records in the ordinary course of business prior to receipt of a request made under subsection (1) of this section. A provider shall not be required to disclose confidential information in any medical record concerning another patient or family member who has not consented to the release of the record.

### **b. 2019 Legislation Update**

LB 112: The bill waives initial licensing fees for low income, military families and young workers (18-25 years of age). It was signed by the Governor on 3-21-19 and becomes effective in 1.1.2020

LB 499: The bill proposes adoption of the APA code for psychology licensing. The hearing was held 3-27-19 and the bill has not come out of committee.

LB 627: The bill prohibits employment discrimination based on sexual orientation and gender identity. It has not moved since February.

### **c. Regulation Status (172 NAC 94)**

Chiles reported that 172 NAC 94 was sent to the Governor's Policy Research Office on 5.22.2019, for review and approval to schedule a public hearing.

Maxson reported the regulation hearing for 471 NAC 32, Mental Health and Substance Abuse Treatment Services of Children and Adolescents, is scheduled for 8.15.2019. Members will be notified when the public hearing is scheduled.

After discussion of the proposed regulations, the board expressed concern that the proposed regulation state that:

- A Licensed Independent Mental Health Practitioner is considered qualified to supervise the practice of ABA and is considered a qualified provider of a Functional Behavioral Assessment; however, an LIMHP is not considered qualified to be a provider of ABA services.
- Providers that are certified by an external certifying association that is not connected or accountable to the Nebraska Department of Health and Human Services as are other licensed providers. These individuals will be providing services to individuals in Nebraska and the primary avenue of accountability would be through the licensed supervisor.

Suggestions: Include individuals licensed as a Licensed Independent Mental Health Practitioner as an ABA provider and consider what unintended ramifications may occur by including providers certified exclusively through a certifying body outside of the State of Nebraska rather than under the licensure processes of DHHS be considered.

The board supported written testimony be drafted by Maxson, on behalf of the Board, to be submitted as part of the hearing comments relating to 41 NAC 32.

**d. Association and Committee Updates: AASCB <http://www.aascb.org> / AMFTRB <http://www.amftrb.org> / ASWB <http://www.aswb.org> / Justice Behavioral Health Committee**

AASCB – The national meeting will be held August 7-9, 2019, in Washington, D.C., as part of a joint Counseling Regulatory Boards Summit in collaboration with the National Board for Certified Counselors (NBCC).

AMFTRB – Battleson reported the AMFTRB **Annual Meeting** will be held September 17–18, 2019 in Minneapolis, Minnesota in conjunction with the Council on Licensure Enforcement & Regulation's (CLEAR).

**MOTION:** Ruma moved, seconded by Hof, to recommend funding travel expenses for Battleson to attend the meeting as Nebraska's delegate. A voice vote was taken. Voting aye: Battleson, Hof, Maxson, Moore, Ruma (5). Voting nay: None (0). Absent: Andrews, Dittmer, Gil, Reay (4). Abstain: None (0). Motion carried.

Justice Behavioral Health Committee – Next meeting is scheduled for the later part of October; the committee has initiated discussions relating to the ASI tool and other optional tools.

**e. Reports: Disciplinary and Non-Disciplinary Actions, Licensure Statistics, and Administrative Penalty Fees Assessed**

Disciplinary/Non-Disciplinary Report was circulated.

Examination statistics since January 1, 2019:

AMFTRB:	3 pass, 2 fail
ASWB:	38 pass, 10 fail
NBCC-NCE:	39 pass, 18 fail
NCMHCE-DM:	12 pass, 14 fail
NCMHCE-IG:	23 pass, 2 fail
ASWB Master's:	1 pass
Jurisprudence:	13 pass

License and Certificate Statistics:

LIMHP:	1912
MFT:	102
MSW:	949
CMSW:	29
LMHP:	2380
CPC:	909
PMSW:	328
PLMHP:	1121
SW:	555

No administrative penalties were assessed since the last meeting of the Board.

**9. ADJOURNMENT**

Moore declared the meeting adjourned at 12:48 p.m.

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Thomas Maxson, Secretary  
Board of Mental Health Practice

Summarized by: Kris Chiles, Program Manager, Licensure Unit